

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

WESTERN DIVISION

ESTATE OF JOSE R. FELICIANO,)
 By and through Jose L. Feliciano and)
 Migdalia Rosado, as Administrators of)
 The Estate of Jose R Feliciano,)
 Plaintiff)

vs.)

Civil No. 03-30.308-MAP

KEVIN A. MILES,)
 LEROY HOLDING COMPANY, INC.,)
 and SLC TRANSPORTS, INC.,)
 Defendants)

PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTION IN LIMINE
REGARDING PHOTOGRAPHS NUMBERED 93 THROUGH 95

The Plaintiffs hereby oppose the Defendants' Motion in Limine seeking to preclude entry into evidence of the photographs numbered 93 through 95 which depict handwritten notes of the decedent, Jose R. Feliciano. In response the Plaintiffs state the following:

The defendants' motion references photographs; however, the plaintiffs do not intend to introduce photographs of these notes. Instead, the original notes will be introduced. The references to numbered photographs in the defense motion actually are references to proposed exhibit numbers sent to the defendants by the plaintiffs in connection with drafting the pre-trial memorandum in this case. The exhibits were copied or scanned and sent to the defendants on a compact disc for review. The actual handwritten notes will be offered at trial.


With respect to the defendants' contention that the handwritten notes are hearsay, the proffered notes are admissible pursuant to FRE 803(3) which provides that statements of the declarant's then existing state of mind, emotion, sensation, or physical condition (such as intent, plan, motive, design, mental feeling, pain, and bodily health), but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the execution, revocation, identification, or terms of declarant's will, are admissible. In other words, the notes are not being offered to prove the truth of the matters asserted therein, but rather are being offered to show the decedent's state of mind and intent.

The relevance of these notes to the case relate to the estate's claim of damages. The notes, attached hereto as Exhibit A, relate to the decedent's care, comfort and support of his parents. These are elements of the parents' claims for loss of consortium, and the notes are direct evidence of the closeness of this family and the caring that the decedent had for his parents because the notes show his state of mind as it relates directly to the caring of his parents.

Although no challenge to the authenticity of the notes has been made, should a challenge be made the notes will be authenticated through FRE 901(b)(2).

WHEREFORE, the plaintiffs hereby request this Honorable Court to deny the defendants' Motion in Limine Regarding Photographs Numbered 93 Through 95.

Respectfully submitted,
By the Plaintiff,
The Estate of Jose R. Feliciano



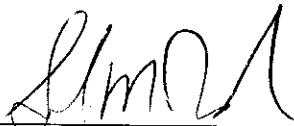
Samuel M. Radner, Esq.
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Hartford, CT 06105
(860) 728-5672
BBO # 565988
Plaintiffs Attorneys

Dated: 4/25/05

CERTIFICATION

I, Samuel M. Radner, Esquire hereby certify that a copy of the foregoing was mailed postage pre-paid to the following counsel and pro se parties of record on April 25, 2005:

Kevin G. Murphy, Esquire
Pessalano, Dusel, Murphy & Casartello, P.C.
115 State Street, 5th Floor
Springfield, MA 01103



Samuel M. Radner, Esquire



done with my sister and myself. The one flaw I hate about my father is his drinking and other habits. My father's life has been ruined and his body is deteriorating because of it. Some day I wonder if he'll live to see the next year. I'm scared to live because I have a feeling ~~that~~ I won't see him again. I'm hoping that won't happen. I want him to live long enough to see my wedding and one of my own children. These things won't happen for several years. I just hope he'll be around, because even though I don't show it, I do love him. I've learned so much from him and I know I can learn so much more.

6/13/03 Pope

My father has been there for me for since the day I was born. I've always been around him since I learned to walk. I remember the days when I used to wash the car with him. And we used to drive around in the Gold Toyota. I remember I use to love driving around with my dad. I use to ask if I could go with him every time he left the house. Whether to a friend's house, work, to the store, or ~~anywhere~~ ^{anywhere}. It didn't matter, what mattered was that I was with him. I'd like to say that I've listen to every word my dad told me. At my 18th birthday news, I'd like to say that I made my dad proud. I'm going to Graduate in the top of my class. I ~~just~~ joined the service just like he wanted me to. He's already congratulate him on the work he's

House Buying Investment Plan

Idea: Buy two/three family house ^{Duplex} Pay that off Buy another two/three family house. Then Buy house for the family. (Molson/Papote)
Have enough money to sent my parent to P.R. To retire or stay here and retire. Cost of House \$80,000 - \$120,000.

Start up money (Estimated) \$10,000 - \$12,000. about 1,000 - 5,000 down payment, \$5,000 to the house for things need to be fixed.

House: Two/Three family house ^{Duplex} 2-3 BR each. HW we'll pay. Stove will be provided. we want ~~to~~ new Boiled/Heater or recent ones. Cost. ~~\$2,000~~ ^{\$600} monthly we want \$600 security \$600, 1st month, \$100 holders fee (will go towards 1st month's rent) non-refundable. * Washer/Dryer will be provided also. Storage in Basement. If have Garage extra want to park car. Extra \$40. month.

GROSS Income for 1st house (2 Family house) 1st floor (Mansion) - 400 mortgage/Investment.
2nd Flr for Rent. \$600 month \$600 security.

All will go into checking account for Mortgage, Bills, or Emergencies.

Start account with \$2000 In Bank. add \$600 security. 1,000 a month for Rent. In 12 month period we should Gross 12,000, Should have \$14,600 In the Bank for HW. Bill * Credit card Bills, Mortgage *

* Card for emergencies and to buy Stove/Heater/washer dryer.

* Account for Business only no personal use unless for ~~paper~~ other Investment or ~~Emergency~~

The loan: Papote (front man), Backed up by Wiso & Paly (backman)
We are all taking the loan, the accountable for all finances.
Loan will be about \$80,000 - \$120,000. We want the loan of 10yrs - 15yrs Interest of 7.5% or lower if possible.

Truck Investment.

Idea: Buy a ~~truck~~ Pickup truck with plow in the
Price Range of \$10,000 - \$15,000.

Truck: Use for winter, ~~and~~ mowing, plowing. Charge \$20-50
for plowing service. Will plow, ~~to~~ Driveway way, shade walkway. Put
salt down for Driveway side walks, Also for personal use for friend
family. Get contract to plow the city.

GROSS Income: (about 4 month period of snow) 6-8 times. ~~about~~ 6-8 clients.
each \$50 every time. \$1500 - \$3200 estimated Income.